

July 5, 2018

Ms. Carol Hoyle  
Irvine Nature Center  
11201 Garrison Forest Road  
Owings Mills, MD 21117

RE: Irvine Nature Center-Aviary  
Forest Conservation Variance Request  
Tracking # 02-18-2743

Dear Ms. Hoyle:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability (EPS), Title 6 Forest Conservation was received by this Department on June 14, 2018. If granted, the variance would allow approximately 5,000 square feet (0.1 acre) of disturbance to an existing forested Forest Conservation Easement (FCE) to construct a new aviary in place of the old dilapidated one.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of the property. The applicant is seeking to replace an existing structure within an existing FCE on a 210-acre environmental education center. Other uses are occurring on the site consistent with such a nature center. Therefore, denying this variance would not result in deprivation of all beneficial use of the property. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner's plight is associated with the location of the old aviary in relation to the FCE rather than the general condition of the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. Given that the proposed aviary would not be visible from any neighboring property and the fact that this nature center has existed for years and is predicated on preserving natural areas, granting this variance will not alter the essential character of the neighborhood. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The proposed FCE impact is not near any stream, wetland, or associated buffer and will total less than 5,000 square feet. Therefore, we find that granting this variance request will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The original aviary was approved by EPS staff in the FCE, given the passive nature and small area used by the aviary. Consequently, the petitioner has not taken any action to create a condition or circumstance necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing minor impact to less than 5,000 square feet of FCE is consistent with the spirit and intent of the Forest Conservation Law given the fact that no impacts to undisturbed forest, specimen trees, or the Forest Buffer Easement are proposed. Moreover, the very intent of the structure is to educate people as to the importance of forest and other natural habitats and the wildlife they support. Therefore, this criterion has been met.

Based on our review, this Department finds that the required criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code contingent upon the following conditions:

1. The over 86 acres of reforestation and wetland mitigation voluntarily performed onsite shall be considered mitigation for the 0.1 acre of impacted FCE. Given the minor nature of the impact, no revision to the recorded FCE will be required.
2. The following note must be on all plans for the project:

“A forest conservation variance was approved by Baltimore County EPS on July 5, 2018 to allow the aviary in the Forest Conservation Easement. Conditions were placed on this approval including reforestation elsewhere on the property.”

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3. The forest conservation plan (plan # FC 07-047) must be revised to reflect the new aviary and conditions of this variance approval.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the appropriate nature center representative sign the statement below and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Deputy Director

DVL/ges

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

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Irvine Nature Center Representative's Signature

Date

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Printed Name